

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

James Huston Hawes,)	C/A No. 4:04-0801-RBH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
John Earl Peters, and Deborah Sue Peters,)	
)	
Defendants.)	
)	

The plaintiff, *pro se*, filed this action against defendants seeking damages against them due to an alleged lack of control they had over their daughter, which led to a criminal conviction against him. On August 12, 2004, authorization to proceed without prepayment of fees and costs was granted and the Marshal was ordered to serve the Complaint on the defendants. A scheduling order was entered on August 30, 2004. On September 1, 2004, plaintiff filed a motion for summary judgment and a motion for default judgment. As defendants are also proceeding *pro se*, the Magistrate Judge issued a *Roseboro* order on September 9, 2004, advising defendants of the importance of a dispositive motion and of the need for them to file an adequate response.

In accordance with 28 U.S.C. § 1915, 28 U.S.C. § 1915A, the Prison Litigation Reform Act, and Local Civil Rule 73.02 this matter comes before the Court with the Report and Recommendation of United States Magistrate Bristow Marchant filed January 21, 2005. This Court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate

Judge with instructions. 28 U.S.C. § 636(b).

Based on his review of the record, the Magistrate Judge concluded that the plaintiff's motions should be denied. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the report. No objections have been filed in this case.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the report and recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

The Court has reviewed the Report, pleadings, memoranda, and applicable law. The Court adopts the Report and Recommendation and incorporates it herein by reference. Accordingly, plaintiff's motions for summary judgment and default judgment are **DENIED** and this case is remanded to the Magistrate Judge for consideration of all pretrial matters.

IT IS SO ORDERED.

s/ R. Bryan Harwell

R. Bryan Harwell

United States District Judge

June 9, 2005
Florence, SC